IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF TENNESSEE AT CHATTANOOGA

UNITED STATES OF AMERICA,)	
PLAINTIFF,)	
v.)	No. 3:16-CR-20 JUDGES COLLIER/GUYTON
MARK HAZELWOOD,	j	
DEFENDANT.	,	

STIPULATION NO. 1 BETWEEN THE GOVERNMENT AND DEFENDANT MARK HAZELWOOD RELATED TO SENTENCING

The parties agree and stipulate to the following:

- 1. If the Government were to proceed with a hearing to establish the loss amount in this case pursuant to Section 2B1.1 of the United States Sentencing Guidelines (U.S.S.G.), it maintains that it would establish, by a preponderance of the evidence, that the loss attributable to Mark Hazelwood is between \$3,500,001 to \$5,000,000 (three-million-five-hundred-thousand-one dollars to five million dollars), resulting in a specific offense level enhancement of 18 levels for loss, pursuant to U.S.S.G. 2B1.1(b)(1)(J).
- 2. For the purposes of sentencing, Mr. Hazelwood will not contest this amount or the application of U.S.S.G. 2B1.1 (b)(1)(J), without in any way waiving (a) his right to request the downward departures/variances as articulated in his sentencing-related motions (but excluding the aspects of the motions related to the alleged deficiencies in KraftCPAs' and Pilot Internal Audit's loss-calculations work) or (b) his right to contest on appeal the admissibility of evidence

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put before the jury at trial in this matter relating to customers' alleged losses, including, without limitation, through the testimony and exhibits offered through Darren Seay.

- 3. For the purposes of paragraph 2, the Government agrees that Mr. Hazelwood may make the argument made in his sentencing-related motions under U.S.S.G 2B1.1, Application Note 3(e) as a basis for variance. Mr. Hazelwood agrees that he will not argue U.S.S.G 2B1.1, Application Note 3(e) as a basis to reduce the 18-point enhancement under U.S.S.G. 2B1.1 (b)(1)(J).
- 4. The Government agrees that it will make no argument at sentencing that Mr. Hazelwood should be punished more severely, or that the Court should decline to award a downward departure or variance, based on any alleged actual loss or intended loss above \$5,000,000 or any other actual victim not included in the Government's Loss Table, which was submitted to the Court on August 1, 2018 (Doc. 620-1), or any other actual or intended victim not identified in evidence admitted at trial. However, Mr. Hazelwood and the Government agree that the Government is not foreclosed by this stipulation from continuing to advance previously made arguments based on evidence admitted at trial related to the February 18, 2013 Orlando, Florida meeting, and Mr. Hazelwood is not foreclosed from continuing to defend against those arguments.

[SIGNATURES FOLLOW ON NEXT PAGE]

IT IS SO STIPULATED AND AGREED:

BY THE UNITED STATES

s/ Francis M/ Hamilton III
Francis M/ Hamilton III

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9/17/2018

Date

BY DEFENDANT MARK HAZELWOOD

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Attorneys for Defendant Mark Hazelwood

9/18/2018

Date

9/17/20/8

Dote

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